

UNITED STATES DISTRICT COURT

for the

Western District of Missouri



Central Division

Charles Davenport

Case No.

20-cv-891

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Officer Jane Doe KCMO Police Officer,
Et Al.
(See Attached)

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Jury Trial: (check one) ☒ Yes ☐ No

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS (Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

RECEIVED
2020 NOV -6 PM 3:00
CLERK U.S. DIST. COURT
WEST. DIST. OF MISSOURI
KANSAS CITY, MO.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Charles Davenport		
Address	950 Holmes St., Apt. #413		
	Kansas City, Missouri 64106		
	City	State	Zip Code
County	Jackson		
Telephone Number	(816) 416-6711		
E-Mail Address	cdwd6@umkc.edu		

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	Officer Jane Doe		
Job or Title (if known)	Kansas City Missouri Police Officer		
Address	1125 Locust St.		
	Kansas City,	MO	64106
	City	State	Zip Code
County	Jackson County		
Telephone Number	1 (816) 234-5000		
E-Mail Address (if known)			
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

Defendant No. 2

Name	Officer John Doe		
Job or Title (if known)	Kansas City Missouri Police Officer		
Address	1125 Locust Street		
	Kansas City	MO	64106
	City	State	Zip Code
County	Jackson County		
Telephone Number	1-816-234-5000		
E-Mail Address (if known)			
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

Defendant No. 3

Name

Mrs. Tyronna Lemmones

Job or Title (if known)

Property Manager East Village Apartments

Address

950 Holmes St.

Kansas City

MO

64106

City

State

Zip Code

County

Telephone Number

E-Mail Address (if known)

☐ Individual capacity ☒ Official capacity

Defendant No. 4

Name

Job or Title (if known)

Address

City

State

Zip Code

County

Telephone Number

E-Mail Address (if known)

☐ Individual capacity ☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

(See Attached Supplemental Pages)

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?
The events occurred in PLAINTIFF'S apartment located at: 950 Holmes, Apt. #102
Kansas City, Missouri 64106
-
- B. What date and approximate time did the events giving rise to your claim(s) occur?
The date was on November 7, 2017, at or around 8:00 a.m.
-
- C. What are the facts underlying your claim(s)? (*For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)

(See Attached Supplemental Pages)

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

(See Attached Supplemental Pages.)

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

(See Attached Supplemental Pages)

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: _____

11/06/2020

Signature of Plaintiff

Printed Name of Plaintiff

Charles Davenport

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

RECEIVED

(Non-Prisoner Complaint)

2020 NOV -6 PM 3:02

Attached Supplemental Pages

CLERK U.S. DIST. COURT
WEST. DIST. OF MO.
KANSAS CITY, MO.**Defendants (Page 1):**

DEFENDANT JANE DOE, KCMO Police Officer; **DEFENDANT JOHN DOE**, KCMO Police Officer; **DEFENDANT TYRONNA LEMMONES**, East Village Property Manager.

II. Basis for Jurisdiction C. (Page 3):

B. Right to be free from unreasonable government intrusion into **PLAINTIFF'S** apartment by: (1) Violation/Breach of **PLAINTIFF'S** 4th Amendment Right to Privacy by Unreasonable Intrusion upon Seclusion; (2) Violation/Breach of **PLAINTIFF'S** 4th Amendment Right to be secure in his persons, apartment, papers, and effects against unreasonable searches; (3) Conspiracy against rights under Title 18, U.S.C., Section 241; (4) 42 U.S. Code § 1985: Conspiracy to interfere with civil rights; (5) State Law Claim: Civil Conspiracy; (6) State Law Claim: Intentional Infliction of Physical and Emotional Distress; (7) State Law and Federal Law Claim: 42 U.S.C. § 1983: Respondeat Superior.

D. DEFENDANTS JANE DOE and JOHN DOE KCMO police officers were acting under the color of law because they: (1) Dressed like KCMO police officers; (2) Never denied they were KCMO Police Officers; (3) Were acting under the lawful authority derived from the City of Kansas City, Missouri local governing body; and (4) Were identified as KCMO police officers by the Dalmark Management Group's attorney, in a letter evicting the tenant across the hall from the **PLAINTIFF** whose apartment was searched immediately after the **PLAINTIFF'S**. (See **Exhibit #1**)

DEFENDANT LEMMONES was acting under the color of law by conspiring with **DEFENDANTS JANE DOE and JOHN DOE** with the express intent to prevent or hinder **PLAINTIFF'S** free exercise or enjoyment of his constitutionally protected civil rights.

III. Statement of Claim (Page 4)

C.: On or about October 19, 2017, **PLAINTIFF** received a Notice from **DEFENDANT LEMMONES** informing him that she will be doing housekeeping inspections and filter replacements from October 23rd until November 10th, 2017 in preparation for a Missouri Housing Development Commission inspection. (See **Exhibit #2**)

On November 7, 2017, at or around 8:00 a.m., while **PLAINTIFF** was sound asleep, he was startled awake by loud banging on his door. **PLAINTIFF** jumped out of the bed half asleep and butt-naked, ran to the door, and angrily asked who was it? **DEFENDANT LEMMONES** responded that she was the property manager and that she needed to come in to conduct a housekeeping inspection of the apartment. **PLAINTIFF** looked out the peephole and was only able to see **DEFENDANT LEMMONES**. **PLAINTIFF** stated "one moment," unlocked the door, and ran back to the bedroom to retrieve a robe. When **PLAINTIFF** returned he noticed that **DEFENDANT LEMMONES** was in the bathroom, located near the entrance door, acting as-if she was inspecting it. **PLAINTIFF** stopped at the bathroom door to point out to **DEFENDANT LEMMONES** some issues he had with the bathroom. While discussing the

bathroom issues **PLAINTIFF** heard voices coming from the direction of his kitchen and living room. **PLAINTIFF** immediately observes **DEFENDANTS JANE** and **JOHN DOE KCMO** Police Officers in his kitchen and living room conducting a search. Also the East Village Maintenance Supervisor was crouched down inspecting the plumbing pipes under the sink. The **PLAINTIFF** approaches the two police officers and asked them why were they in his apartment and who gave them permission to enter and conduct an obvious search? The two officers responded that they were with **DEFENDANT LEMMONES**. **DEFENDANT LEMMONES** responded from the bathroom that they were with her. **PLAINTIFF** angrily informed **DEFENDANT LEMMONES** that she cannot give police officers consent to enter and search his apartment unless it is an emergency. **PLAINTIFF** angrily approached the two officers and requested to see a court ordered search warrant to justify them entering and searching his apartment. The officers responded that they didn't need a search warrant because they were invited in by **DEFENDANT LEMMONES**. The **PLAINTIFF** then asked **DEFENDANT LEMMONES** why she gave the police officers consent to enter and search his apartment. **DEFENDANT LEMMONES** responded that she didn't have to obtain permission because she had passed out **NOTICES** informing all the East Village tenants that she was coming to every apartment to conduct housekeeping inspections. **PLAINTIFF** responded that he did, in fact, receive the **NOTICE** informing him that **DEFENDANT LEMMONES** was going to conduct housekeeping inspections but it failed to specify a certain date, a certain time, or that she would be accompanied by the KCMO Police and the Maintenance Supervisor.

PLAINTIFF angrily began to inform **DEFENDANT LEMMONES** that she cannot give consent to the police to enter his apartment and conduct a search of **PLAINTIFF'S** occupied rental property. Only the **PLAINTIFF**, because he is listed on the lease agreement, can do that. **PLAINTIFF** further informed **DEFENDANT LEMMONES** that if the police have a proper search warrant, then the property manager is obligated to allow them to enter the rental property, even if the **PLAINTIFF** is not there.

Pursuant to federal and Missouri law, there are only three ways that it was legal for the police to enter and search **PLAINTIFF'S** apartment: 1. The police can enter **PLAINTIFF'S** apartment and conduct a search without a warrant if the **PLAINTIFF** gives consent to do so; 2. Police are also allowed to enter **PLAINTIFF'S** apartment without permission from the **PLAINTIFF** if they have a proper search warrant signed by a judge; and, 3. Police can enter **PLAINTIFF'S** rental property if they believe there is an imminent danger, such as hearing shots fired from inside, sounds of serious fighting or answering calls for help. Neither of these elements existed.

DEFENDANT LEMMONES –and those acting in concert with her- conspired with the KCMO Police to create a fabricated excuse to illegally enter and conduct an illegal search of **PLAINTIFF'S** apartment without consent, warrant, or probable cause is in retaliation for **PLAINTIFF'S** filing of numerous complaints against **DEFENDANT LEMMONES** to **DEFENDANT DALMARK HOUSING GROUP** and to **DEFENDANT COMMUNITY BUILDERS OF KANSAS CITY**.

When the “sham” inspection and search were completed, **DEFENDANT LEMMONES**, along with **DEFENDANTS JANE** and **JOHN DOE KCMO** Police Officers, went across the hall to Apt. #103 where they also searched and allegedly discovered powdered cocaine on the kitchen

counter. A couple of weeks later the tenant residing in Apartment #103 was evicted but not charged with allegedly possessing powdered cocaine, a felony.

Afterwards, **DEFENDANT LEMMONES**, and **DEFENDANTS JANE** and **JOHN DOE** KCMO Police Officers went to several other apartments to continue to conduct nonconsensual, warrantless, apartment searches without probable cause under the guise of performing housekeeping inspections.

PLAINTIFF immediately put on his clothes and went across the street to the KCMO Police Department. **PLAINTIFF** asked the officer at the desk was he aware of who authorized two police officers to conduct searches of several East Village Apartments. The Officer at the desk pulled out a ledger, began perusing it, and then told **PLAINTIFF** that there was no record of any officers being deployed to the East Village Apartments. (See Exhibit 3)

IV. Injuries (Page 5):

As a direct and proximate result of **DEFENDANTS'** conduct, **PLAINTIFF** has suffered and continues to suffer from emotional, psychological, physical abuse and financial damages including, but not limited to, aggravation of a preexisting medical condition, fear for personal life and well-being, diminished quality of living conditions, social isolation, emotional suffering (including anguish, fright, horror, nervousness, grief, anxiety, worry, shock, humiliation, and shame), physical suffering (loss of appetite, sleep deprivation, depression, anxiety, migraine headaches, stomach and digestive issues), diminution in value of the apartment, out of pocket costs, and reasonable medical expenses.

The **DEFENDANTS'** conduct was intentional and malicious and done for the purpose of causing **PLAINTIFF** to suffer mental anguish, and emotional and physical distress. As a direct and proximate result of these acts, inactions, and omissions, **PLAINTIFF** suffers, and will continue to suffer, mental anguish, and emotional and physical distress, is required to take prescription psychiatric medications, and employs a primary care physician, a psychiatrist, and a psychiatric therapist to treat and care for him, thus incurring numerous medical bills.

V. Relief (Page 5):

1. Judgment entered in favor of **PLAINTIFF** and against **DEFENDANTS** on all Counts of **PLAINTIFF'S** Complaint and an award of past and future medical, incidental, and service expenses according to proof to be ascertained at trial;
2. Judgment entered in favor of **PLAINTIFF** and against **DEFENDANTS** on all Counts of **PLAINTIFF'S** Complaint and an award of aggravated damages to be ascertained at trial;
3. Judgment entered in favor of **PLAINTIFF** and against **DEFENDANTS** on all Counts of **PLAINTIFF'S** Complaint and an award of compensatory damages to be ascertained at trial;
4. Judgment entered in favor of **PLAINTIFF** and against the **DEFENDANTS** on all Counts of **PLAINTIFF'S** Complaint and an award of punitive damages to be ascertained at trial;
5. An award of pre-judgment interest, attorney fees, costs and post-judgment interest in favor of **PLAINTIFF** and against **DEFENDANTS**;

6. That this Honorable Court award **PLAINTIFF** the opportunity to amend or modify the provisions of this Complaint as necessary or appropriate after additional or further discovery is completed in this matter, and after all appropriate parties have been served; and
7. Such further and other legal and equitable relief as this Honorable Court may deem just, fair, equitable, reasonable, and necessary under the circumstances and under the law.

JURY DEMAND

PLAINTIFF demands a trial by jury on all issues so triable.